



confidential financial disclosure

Debby Sisco to: Anna Lowit, Michael Lowit

Bcc: Karen Angulo

03/21/2011 02:55 PM

Anna and Michael,

As you may know, EPA's Supplemental Ethics Regulations (<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=0c08469eb6e9a4819e148df74966ca6a&rgn=div5&view=text&node=5:3.0.36.11.1&idno=5>) prohibit employees of the Office of Pesticide Programs from owning an interest in pesticide companies, more specifically,

(2) Employees in the Office of Pesticide Programs are prohibited from having outside employment with stock or any other financial interest in companies that manufacture or provide wholesale distribution of products registered by the EPA. These restrictions apply to companies with subsidiaries in these areas but do not include retail distributors to the general public.

The DEO (Steve Bradbury) is permitted to grant a waiver of this provision in cases where there does not appear to be any real conflict of interest or appearance of lack of impartiality. We typically also require a recusal.

b) The Designated Agency Ethics Official or the cognizant Deputy Ethics Official may grant a written waiver of the prohibitions in paragraph (a)(1) through (a)(3) of this section based on a determination that the waiver is not inconsistent with part 2635 of this title or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position, loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered. A waiver under this paragraph may impose appropriate conditions, such as the execution of a written disqualification.

Anna, you have had a waiver of this provision, which will expire this month. Michael, you are not a filer, so normally I would have no way of knowing what you own. However, I have Anna's 450 and it tells me that you own an interest in (b) (6) (b) (6) each of which have active pesticide registrations. I wasn't sure what to do about this, so I checked with OGC and they have told me that, once I know you hold these interests, I cannot ignore it. Therefore, you both need to request waivers and submit recusals to your supervisors, with a copy to Steve and me.



Here is the template for the waiver request and recusal. TEMPLATE recusal on letterhead.doc



TEMPLATE waiver request on letterhead.doc

The good news is that I no longer need to make the waivers expire every 5 years.

You can request a waiver for all 4 companies in one letter.

Let me know if you have any questions.

Debby Sisco  
Office of Pesticide Programs  
Ethics Officer and Special Assistant to the Director  
Room 12244 Potomac Yard South --- (703 308-8121)





To: Anna Lowit/DC/USEPA/US, Michael Lowit/DC/USEPA/US,  
Cc:  
Bcc:  
Subject: Fw: confidential financial disclosure REMINDER

Let me know if you have questions. Anna and Michael,

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Debby Sisco  
Office of Pesticide Programs  
Ethics Officer and Special Assistant to the Director  
Room 12244 Potomac Yard South --- (703 308-8121)  
----- Forwarded by Debby Sisco/DC/USEPA/US on 04/07/2011 12:00 PM -----

From: Debby Sisco/DC/USEPA/US  
To: Anna Lowit/DC/USEPA/US@EPA, Michael Lowit/DC/USEPA/US@EPA  
Date: 03/21/2011 02:55 PM  
Subject: confidential financial disclosure

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**Sisco, Debby**

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**From:** Lowit, Michael  
**Sent:** Monday, June 13, 2016 2:58 PM  
**To:** Fugh, Justina  
**Cc:** Housenger, Jack; Sisco, Debby; Fort, Daniel  
**Subject:** RE: concern about conflicts of interest  
**Attachments:** Recusal & Waiver\_M Lowit.pdf

Hi Justina,

Debbie is aware of my financial interests (including those listed below). Debbie indicated that I needed a waiver and recusal for certain assets which have been in effect for some time (see attached for most recent). The only exception is (b) (6) which I still have a waiver for but is not on the most recent recusal because they no longer have pesticide registrations (according to Debbie).

Michael

**From:** Fugh, Justina  
**Sent:** Monday, June 13, 2016 1:36 PM  
**To:** Lowit, Michael <Lowit.Michael@epa.gov>  
**Cc:** Housenger, Jack <Housenger.Jack@epa.gov>; Sisco, Debby <Sisco.Debby@epa.gov>; Fort, Daniel <Fort.Daniel@epa.gov>  
**Subject:** concern about conflicts of interest

Hello,

My name is Justina Fugh, and I am the Senior Counsel for Ethics here at EPA. In reviewing the public financial disclosure report of your wife, Anna Lowit, OGC (Dan Fort, copied here, and I) discovered that she (and therefore also you) own assets that give rise to possible financial conflicts of interest. The following assets present areas of concern because each is over the regulatory exemption level for specific party matters:

- (b) (6)

In fact, we note that your ownership interest in (b) (6) is over the regulatory exemption level for participating in matters of general applicability. Given what you own, you may also have a problem participating in particular matters that involve these certain sectors:

(b) (6)

If you own more than \$25,000 in any of the assets, then you have a conflict with that entire sector. We already know that you have a conflict of interest with (b) (6)

(b) (6)  
(b) (6) for example. Here is more information about the financial conflicts.





### Regulatory Exemption Levels

There are different regulatory exemption levels, depending on the type of particular matter. You can still participate if you own less than the levels below:

SPECIFIC PARTY MATTER	MATTER OF GENERAL APPLICABILITY
e.g., an enforcement action against ABC Widget Company	e.g., working on a rulemaking that affects all widget manufacturers
≤\$15,000 aggregate in ABC Widget Co.	≤\$25,000 aggregate in any one widget maker (e.g., ABC Widget Corp. or DEF Widget Corp.)
≤\$25,000 aggregate for any affected non-parties (e.g., DEF Widget Corp. which manufactures a similar product)	≤\$50,000 aggregate in all affected parties (all widget makers)

### Why Do We Raise Concerns?

A criminal statute, 18 U.S.C. §208(a), bars you from participating in any “particular matter” that affects any of your own interests or any imputed interest (e.g., spouse or dependent children). Your interests include not only ownership interests (e.g., stock, bonds, mutual funds) but also the interests of outside entities (e.g., any organization in which you are serving as an officer, director, or trustee) and prospective employers (any entity with which you are seeking future employment). So you can’t participate in any particular matter that will have a direct and predictable effect on your financial interest.

The important point to remember here is that 18 U.S.C. §208(a) is a criminal statute. A knowing violation of this statute can result in criminal prosecution and penalties. It’s important to understand the elements of the financial conflict of interest statute. You have to participate “personally and substantially” in a “particular matter” in order for there to be a conflict of interest, and there has to be a “direct and predictable” effect on your financial interests.

### What is a particular matter?

A “particular matter” involves any deliberation, decision or action and that is focused on the interests of specific persons/organizations or any identifiable class of persons. It includes “specific party” matters (e.g., contracts, grants, assistance agreements, lawsuits, enforcement action, permits, licenses, audits) and matters of “general applicability” (e.g., rulemaking or policy matters) that distinctively affect a particular industry or identifiable class of persons.

### What is “personal and substantial” participation?

*Personal participation* means that you were personally involved in the matter or that you directed or controlled a subordinate’s participation. *Substantial participation* means that your involvement in the matter was of significance, which includes decision-making, review or recommendation as to an action being taken, signing or approving a final document, and/or participating in a final decision briefing.

### What is a “direct and predictable” effect on a financial interest?

The effect must be direct and predictable and not speculative (though the actual dollar amount does not need to be ascertained). There must be close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest.

I know that Debby will be on leave for another week, so your office wants to wait to fully resolve your and your wife’s financial conflicts until we can confer with her. But until then, you must recuse from participation in any particular matter that involves the identified companies or sectors.

Justina

